

PUBLIC EMPLOYMENT RELATIONS BOARD

1994-95 ANNUAL REPORT

NOVEMBER 1995



PETE WILSON

GOVERNOR

STATE OF CALIFORNIA

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I. INTRODUCTION

The Public Employment Relations Board (PERB) is pleased to submit its 1994-95 annual report. The report presents a brief overview of PERB's statutory authority, organizational structure, major functions, and workload.

It is the mission of PERB to administer and enforce California public sector collective bargaining laws in an expert, fair and consistent manner; to thereby promote improved public sector employer-employee relations; and to provide a timely and cost effective method through which employers, employee organizations and employees can resolve their labor relations disputes.

PERB, like many agencies within state government, has experienced substantial downsizing over the last several years. Since the 1990-91 fiscal year, PERB has seen its financial and staff resources reduced by approximately 40 percent. As a result, PERB has engaged in an ongoing process of program evaluation to identify those discretionary and low priority activities which can be curtailed or eliminated to ensure PERB's ability to continue to fulfill its basic mission.

The staff and members of PERB take great pride in the fact that we have been up to the challenge of maintaining service levels in this era of shrinking resources. Through increased application and use of technology in the performance of our functions, through an emphasis on the development of generalist staff, through a collaborative team approach to the management of PERB and its workload, and through the commitment and creativity demonstrated by PERB staff every single day, PERB has continued to fulfill its mission in an effective and efficient manner.

To obtain additional information about PERB, its organization, functions and workload, please contact the Public Employment Relations Board Sacramento Headquarters at (916) 322-3198.

David M. Caffrey
Vice Chair

Huston T. Carlyle, Jr.
Marz Garcia
James C. Johnson
Board Members

II. STATUTORY AUTHORITY AND JURISDICTION

The Public Employment Relations Board (PERB) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. PERB administers three collective bargaining statutes, insures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Educational Employment Relations Act (EERA) of 1976 (Gov. Code sec. 3540, et seq.), authored by State Senator Albert S. Rodda, establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) (Gov. Code sec. 3512, et seq.), establishing collective bargaining for State Government employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 (Gov. Code sec. 3560, et seq.), authored by Assemblyman Howard Berman, extending the same coverage to the California State University and University of California systems and Hastings College of Law.

Approximately 860,000 public sector employees and nearly 1,200 public employers are included within the jurisdiction of the three Acts administered by PERB. The majority of these employees (c. 650,000) work for California's public education system from pre-kindergarten through and including the community college level. The remainder are employees of the State of California (c. 120,000), or the University of California, the California State University, and the Hastings College of Law (c. 90,000).

Collective bargaining involving California's municipal, county, and local special district employers and employees is authorized by the Meyers-Milias-Brown Act, which is not subject to PERB's jurisdiction.

III. THE BOARD AND ITS DUTIES

The Public Employment Relations Board itself is composed of five members appointed by the Governor and subject to confirmation by the State Senate. Board members are appointed to five-year terms, with the term of one member expiring at the end of each calendar year. In addition to the overall responsibility for administering the three statutes, the Board itself acts as an appellate body to hear challenges to proposed decisions that are issued by the staff of the Board. Decisions of the Board itself may be appealed under certain circumstances, and then only to the state appellate courts. The Board, through its actions and those of its staff, is empowered to:

- conduct secret ballot elections to determine whether or not employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- prevent and remedy unfair labor practices, whether committed by employers or employee organizations;
- deal with impasses that may arise between employers and employee organizations in their labor relations by establishing procedures to resolve such disputes;
- ensure that the public receives accurate information and has the opportunity to register its opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- interpret and protect the rights and responsibilities of employers, employees and employee organizations under the Acts;
- bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings;
- conduct research and training programs related to public sector employer-employee relations.
- take such other action as the Board deems necessary to effectuate the purposes of the Acts it administers.

During fiscal year 1994-95, 67 cases were added to the docket of the Board itself. With 32 open cases on the docket as of July 1, 1994, the Board's 1994-95 caseload consisted of 99 cases. The Board decided 84 of these cases

in 1994-95, an increase of 27 percent over the prior year. Over the last four years, the Board itself has issued 312 decisions, an average of 78 decisions per year.

IV. THE ORGANIZATION AND FUNCTIONS OF PERB

The Board staff consists of approximately 40 persons. PERB is headquartered in Sacramento and maintains regional offices in Los Angeles and San Francisco. The major organizational elements of PERB, in addition to the Board itself, are the Division of Administrative Law, the Office of the General Counsel, the Representation Section, and the Administration Section. These organizational elements are described below.

The major functions performed by PERB staff involve the evaluation and adjudication of approximately 500 unfair practice charges filed annually with PERB; and the administration of the statutory process through which public employees select employee organizations to represent them in their labor relations with their employer. These functions are also described below.

The relatively small size of PERB staff makes it essential that the organizational boundaries of PERB be flexible, providing the ability to direct personnel resources to the priority workload at any point in time. Accordingly, regional attorneys may serve as ad hoc ALJs to relieve a backlog of cases awaiting formal hearing. Similarly, representation staff may investigate unfair practice charges under the direction of a PERB regional attorney. By utilizing its staff resources in this way, PERB has been able to effectively handle its workload.

The **Division of Administrative Law** houses PERB's Administrative Law Judges (ALJ), who serve as impartial judges of the labor disputes which fall under PERB's jurisdiction. PERB ALJs conduct informal conferences with the parties to unfair practice cases in an effort to settle disputes before proceeding to formal hearing. If no settlement is reached, PERB ALJs conduct adjudicative proceedings complete with the presentation of evidence and examination of witnesses under oath. The ALJs issue proposed decisions consisting of written findings of fact and legal conclusions.

The **Office of the General Counsel** includes PERB's chief legal officer and regional attorneys. The office is responsible for managing the processing of unfair practice charges, and for providing legal representation to PERB in all court proceedings.

An **unfair practice charge** may be filed with PERB by an employer, employee organization, or employee, alleging that an employer or employee organization has committed an act which is unlawful under one of the Acts administered by PERB. Examples of unlawful employer conduct are: coercive questioning of employees regarding their union activity; disciplining or threatening employees for participating in union activities; or promising benefits to employees if they

refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; or failing to represent bargaining unit members fairly in their employment relationship with the employer.

An unfair practice charge filed with PERB is evaluated by staff to determine whether a prima facie case of an unlawful action has been established. A charging party establishes a prima facie case by alleging sufficient facts to permit a reasonable inference that a violation of the EERA, Dills Act, or HEERA has occurred. If it is determined that the charge fails to state a prima facie case, a Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. If the charge is neither amended nor withdrawn, the Board agent dismisses it. The charging party may appeal the dismissal to the Board itself.

If the Board agent determines that a charge, in whole or in part, states a prima facie case of a violation, a formal complaint is issued. The respondent is then given an opportunity to file an answer to the complaint.

Once a complaint has been issued, an ALJ or other PERB agent is assigned to the case and calls the parties together for an informal settlement conference, usually within 30 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB ALJ is scheduled, normally within 60 days of the date of the informal conference. Following this adjudicatory proceeding, the ALJ prepares and issues a proposed decision. A party to the case may then file an appeal of the proposed decision to the Board itself. The Board itself may affirm, modify, reverse or remand the proposed decision. Proposed decisions which are not appealed to the Board itself are binding upon the parties to the case.

Proposed decisions which have not been appealed to the Board itself may not be cited as precedent in other cases before the Board. Decisions of the Board itself are both precedential and binding on the parties to a particular case. A digest of PERB decisions is available upon request.

The **legal representation** function of the Office of the General Counsel includes:

- defending final Board decisions or orders in unfair practice cases when parties seek review of those decisions in state appellate courts;
- seeking enforcement when a party refuses to comply with a final Board decision, order or ruling, or with a subpoena issued by PERB;

- seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;
- defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- submitting amicus curiae briefs and other motions, and appearing in cases in which the Board has a special interest or in cases affecting the jurisdiction of the Board.

The **Representation Section** oversees the statutory process through which employees come to form a bargaining unit and select an organization to represent them in their labor relations with their employer. As of June 30, 1995, there were approximately 2,300 represented bargaining units within PERB's jurisdiction.

The representation process normally begins when a petition is filed by an employee organization to represent employees in classifications which reflect an internal and occupational community of interest. If only one employee organization petition is filed and the parties agree on the description of the bargaining unit, the employer may either grant voluntary recognition or ask for a representation election. If more than one employee organization is competing for representational rights of the same bargaining unit, an election is mandatory.

If either the employer or an employee organization disputes the appropriateness of the proposed bargaining unit, a Board agent convenes a settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation and/or hearing and issues a written determination which sets forth the appropriate bargaining unit, or modification of that unit, and is based upon application of statutory unit determination criteria and appropriate case law to the facts obtained in the investigation or hearing. Once an initial bargaining unit has been established, PERB conducts a representation election in cases in which the employer has not granted voluntary recognition to an employee organization. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

Representation Section staff also assist parties in reaching negotiated agreements through the mediation process provided in the three Acts PERB administers, and through the factfinding process provided under EERA and HEERA. If the parties are unable to reach an agreement during negotiations, either party may declare an impasse. At that time, a Board agent contacts both

parties to determine if they have reached a point in their negotiations at which their differences are so substantial or prolonged that further meetings without the assistance of a mediator would be futile. Once PERB has determined that an impasse exists, the State Mediation and Conciliation Service of the Department of Industrial Relations is contacted to assign a mediator.

In the event settlement is not reached during mediation, either party, under EERA and HEERA, may request the implementation of statutory factfinding procedures. PERB provides lists of neutral factfinders who make findings of fact and advisory recommendations to the parties concerning terms of settlement.

The **Administration Section** provides support services to PERB, such as business services, personnel, accounting, information technology, mail and duplicating. This section also maintains liaison with the Legislature, the Department of Finance and other agencies within state government.

In keeping with State of California guidelines, PERB maintains an affirmative action policy as a means of achieving equal employment opportunities. PERB's policy prohibits discrimination based on age, race, sex, color, religion, national origin, political affiliation, ancestry, marital status, sexual orientation or disability.

V. OTHER PERB FUNCTIONS AND ACTIVITIES

File of Collective Bargaining Agreements

PERB regulations require that employers file with PERB a copy of all collective bargaining agreements reached pursuant to the three Acts PERB administers, within 60 days of the date of execution. These contracts are maintained as public records in PERB's regional offices.

Financial Reports

The law requires recognized or certified employee organizations to file with PERB an annual financial report of income and expenditures. Organizations which have negotiated a fair share fee arrangement for bargaining unit members have additional filing requirements. Complaints alleging noncompliance with these requirements may be filed with PERB, which may take action to bring the organization into compliance.

PERB Advisory Committee

The Advisory Committee to the Public Employment Relations Board consists of approximately 100 people from throughout California representing employers, employee organizations, law firms, negotiators, professional consultants, the public and scholars. The Advisory Committee was originally established several years ago to assist the Board in its regulation review process. Currently, the Advisory Committee continues to assist the Board in its search for ways to improve PERB's effectiveness and efficiency in working with public sector employers and employee organizations to promote the resolution of disputes and contribute to greater stability in employer-employee relations. Advisory Committee meetings are usually held semi-annually.

Information Requests

As California's expert administrative agency in the area of public sector collective bargaining, PERB is consulted by similar agencies from other states concerning its policies, regulations and formal decisions. Information requests from the Legislature and the general public are also received and processed. Additionally, PERB cooperates with the Institute of Industrial Relations of the University of California, Berkeley, in the dissemination of information concerning PERB policies and actions to interested parties throughout the state.

VI. 1994-95 WORKLOAD STATISTICS

The major components of PERB's 1994-95 workload are summarized on the following pages, including:

- a brief description of the cases decided by the Board itself during 1994-95;
- a numerical summary of PERB's unfair practice charge workload during 1994-95;
- a brief description of the 1994-95 litigation activity of PERB's Office of the General Counsel;
- a numerical summary of PERB's representation cases workload during 1994-95.

More detailed information concerning PERB decisions and workload may be obtained by contacting PERB's headquarters office.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1047a	College of the Redwoods Faculty Assn. v. Redwoods CCD	Union requests reconsideration of Board's decision which found no violation.	Request fails to meet reconsideration standard.
1051-H	Leonard Bacon v. CA Faculty Assn.	Union violated its duty of fair representation in handling employee's grievance.	Dismissed for failure to state a prima facie case.
1052	Scotts Valley Ed. Assn. v. Scotts Valley UESD	District transferred teacher in retaliation for her exercise of protected activity.	Dismissed. No violation found.
1053	Assn. of Rowland Educators v. Rowland USD	District unlawfully implemented a waiver of the statutory right to bargain.	Violation found. District ordered to rescind contract term.
1054	Betty J. Gibson v. Amalgamated Transit Union	Union violated its duty of fair representation in handling employee's grievance.	Dismissed for failure to state a prima facie case.
1055-H	Univ. Professional & Tech. Employees, et al. v. UC Regents	UC failed to provide notice of salary change.	Dismissed. No violation found.
1056-S	CA State Employees Assn. v. CA Dept. of Corrections	State increased class size without negotiating and failed to provide requested information.	Dismissed. No violation found.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1057	Welborn G. Freeman v. Oakland Ed. Assn.	Union violated its duty of fair representation in handling employee's grievance and retaliated against employee for his exercise of protected activity.	Dismissed in part as untimely filed and for failure to state a prima facie case.
1058-H	Mary G. Higgins v. UC Regents	UC discriminated against employee for her exercise of protected activity.	Dismissed for failure to state a prima facie case.
1059	Laurel Burchell v. Centralia SD	District discriminated against employee for her exercise of protected activity.	Dismissed. No violation found.
1060	George V. Mrvichin v. Los Angeles CCD	District discriminated against employee for his exercise of protected activity.	Remanded to General Counsel for further investigation.
1061	Los Angeles City and County School Employees v. Los Angeles USD	District refused to provide requested information.	Dismissed. No violation found.
1062-H	Ning-Ping Chan v. Univ. Council - AFT	Union violated its duty of fair representation in handling employee's grievance.	Dismissed for failure to state a prima facie case.
1063-S	Charles D. Strickland v. CA Dept. of General Services	State discriminated against employee for his exercise of protected activity.	Dismissed. No violation found.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1064-S	Christian John v. CA Union of Safety Employees	Union discriminated against employee for his exercise of protected activity.	Violation found. Union ordered to reimburse employee for cost of representation.
1065	Patricia L. Allen v. San Jose Teachers Assn.	Union violated its duty of fair representation in handling employee's grievance.	Dismissed in part as untimely filed and for failure to state a prima facie case.
1066-S	Gene Kaplan v. CA Dept. of Consumer Affairs	District discriminated against employee for his exercise of protected activity.	Dismissed as untimely filed.
1067-S	ACSA and PECG; CSEA; CDFEA v. CA Dept. of Personnel Administration	State denied unions right to bargain when it made proposals to the Legislature.	Dismissed. No violation found.
1068	San Francisco CCD and Laborers' International Union	Union seeks a separate bargaining unit comprised of gardeners and nursery specialists employed by the District.	Board found unit comprised of all building trades classifications to be appropriate.
1069-H	Ning-Ping Chan v. UC Regents	UC discriminated against employee for her exercise of protected activity.	Appeal dismissed as defective.
1070	David L. Carlson v. Davis Teachers Assn.	Union unlawfully denied employee's religious objector status in payment of union fair share fees.	Dismissed for failure to state a prima facie case.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1071-S	International Union of Operating Engineers v. CA Dept. of Food and Agriculture	State unilaterally changed the grievance procedure without negotiating.	Dismissed for failure to state a prima facie case.
1072-H	Univ. Council - AFT v. UC Regents	UC unlawfully contracted out bargaining unit work without negotiating.	Dismissed for failure to state a prima facie case.
1073	Service Employees International Union v. Ventura CCD	District interfered with the exclusive representative when it unlawfully supported a rival employee organization.	Violation found. District ordered to cease contributing financial or other support to rival organization.
1074	Elisa M. Leptich v. American Federation of Teachers	Union violated its duty of fair representation by terminating employee's union membership.	Dismissed in part as untimely filed and for failure to state a prima facie case.
1074a	Elisa M. Leptich v. American Federation of Teachers	Employee requests reconsideration of Board's dismissal of charge.	Reconsideration request denied.
1075	Howard Spade v. San Juan Teachers Assn.	Union discriminated against employee for his exercise of protected activity.	Dismissed. No violation found.
1076	CA School Employees Assn. v. San Benito HSD	District unilaterally changed the duties of a campus supervisor without negotiating.	Dismissed for failure to state a prima facie case.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1077-H	Univ. Council - AFT v. UC Regents	UC unilaterally adopted a policy changing employee merit reviews without negotiating.	Violation found. UC ordered to withdraw policy and negotiate upon union's request.
1078	CA School Employees Assn. v. San Jacinto USD	District made several unilateral changes without negotiating.	Violation found. District ordered to restore status quo, reimburse for lost wages and negotiate upon union's request.
1079	Associated Administrators of Los Angeles and Service Employees International v. Los Angeles USD	District negotiated an unlawful contract provision.	Violation found. District ordered not to give effect to unlawful provision.
1080-S	Frank D. Janowicz v. CA Dept. of Youth Authority	State discriminated against employee for his exercise of protected activity.	Dismissed. Employee barred from relitigating matter previously resolved in another forum.
1081	Elisa M. Leptich v. San Francisco CCD	District discriminated against employee for her exercise of protected activity.	Dismissed as untimely filed.
1081a	Elisa M. Leptich v. San Francisco CCD	Employee requests reconsideration of Board's dismissal of charge.	Reconsideration request denied.
1082	San Juan USD and CA School Employees and Teamsters	Union seeks to sever employees in food services and maintenance classifications out of an existing general classified bargaining unit.	Board granted severance petition finding new unit to be appropriate.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1083	Sierra HSD Teachers Assn. v. Sierra JUHSD	District unilaterally changed the salary schedule without negotiating.	Dismissed. No violation found.
1084	Richard Kidd and Joann Hendricks v. San Francisco CCD Fed. of Teachers	Union violated its duty of fair representation when it refused to consider request to modify union's internal rules.	Dismissed. Internal union affairs outside PERB's jurisdiction.
1085	CA School Employees Assn. v. Cajon Valley USD	District unilaterally modified the hours of vacant positions without negotiating.	Dismissed. No violation found.
1086	San Francisco USD; and Glaziers, Metal and Glass Workers; and Electrical Workers; and Sheet Metal Workers	Three unions seek separate bargaining units for various employee classifications.	Petition denied. Residual unit found appropriate.
1087-H	Robert A. Costa v. UC Regents	UC discriminated against employee for his exercise of protected activity.	Dismissed. No violation found.
1088	Middletown Teachers Assn. v. Middletown USD	District unilaterally changed practice of noticing union meetings.	Board granted parties' request to withdraw charge.
1089	Grayson L. Hare v. CA School Employees Assn.	Union violated its duty of fair representation in handling employee's grievance.	Dismissed for failure to state a prima facie case.

1994-95 DECISIONS OF THE BOARD ITSELF

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
1090	CA School Employees Assn. v. Norris SD	District unilaterally transferred work to new classification and set salary without negotiating.	Violation found. District ordered to pay lost wages and negotiate upon union's request.
1091	George V. Mrvichin v. Los Angeles CCD	District discriminated against employee for his exercise of protected activity.	Violation found. District ordered to reinstate employee, pay lost wages and delete documents from personnel file.
1092	United Professors of Marin v. Marin CCD	District unilaterally placed managers on certificated salary schedule without negotiating.	Violation found. District ordered to negotiate upon union's request.
1093-H	CA State Employees Assn. v. CSU	CSU unilaterally suspended payment of merit salary adjustments without negotiating.	Dismissed. No violation found.
1094-H	Academic Professionals of CA v. CSU	CSU unilaterally changed the grievance procedure without negotiating.	Dismissed for failure to state a prima facie case.
1095	Yuba City Unified Education Assn. v. Yuba City USD	District unilaterally changed teacher preparation periods and teaching assignments without negotiating.	Dismissed. Board deferred to decision of the arbitrator.
1096-S	CA State Employees Assn. v. CA Dept. of Corrections	State unilaterally transferred duties to another classification without negotiating.	Dismissed for failure to state a prima facie case.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1097	Guadalupe B. Marquez v. CA School Employees Assn.	Union violated its duty of fair representation when it negotiated terms contrary to the interests of the employee.	Dismissed for failure to state a prima facie case.
1098	CA Teachers Assn. v. Pasadena CCD	District unilaterally changed the rate certain instructors were paid without negotiating.	Dismissed. No violation found.
1099-S	Joyce Fox v. CA State Employees Assn.	Union violated its duty of fair representation in handling employee's grievance and in failing to pay for legal representation before the State Personnel Board.	Dismissed for failure to state a prima facie case.
1100-S	CA State Employees Assn. v. CA Dept. of Corrections	State denied union its rights when it discriminated against an employee for his exercise of protected activity.	Dismissed for lack of jurisdiction. Board deferred to contractual grievance and arbitration provision.
1101-S	CA State Employees Assn. v. CA Dept. of Corrections	State unlawfully refused to honor a settlement agreement pertaining to teacher shift schedules.	Dismissed as untimely filed.
1102	CA School Employees Assn. v. Desert Sands USD	District discriminated against employee for her exercise of protected activity.	Dismissed for lack of jurisdiction. Board deferred to contractual grievance and arbitration provision.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1103	Laguna Salada Education Assn. v. Laguna Salada USD	District unilaterally implemented a salary reduction which was not reasonably comprehended within its final offer.	Violation found. District ordered to cease implementation of terms not reasonably comprehended within its final offer.
1104	CA Correctional Peace Officer Assn. v. CA Dept. of Corrections	State interfered with union's right to represent members when it questioned a witness to a State Personnel Board proceeding.	Violation found. State ordered to cease interference with union representation.
1105	CA School Employees Assn. v. Pomona USD	District interfered with union's rights when it supported another employee organization.	Dismissed for failure to state a prima facie case.
1106	CA School Employees Assn. v. Moreno Valley USD	District unilaterally changed custodian work shifts from day to night without negotiating.	Violation found. District ordered to restore shift assignments and negotiate upon union's request.
1107-S	CA Correctional Peace Officers Assn. v. CA Dept. of Corrections	State denied union its rights when it discriminated against an employee for his exercise of protected activity.	Dismissed. Board deferred to decision of the arbitrator.
1108	Ismael T. Chacon v. CA School Employees Assn.	Union violated its duty of fair representation when it negotiated terms contrary to the interests of the employee.	Dismissed for failure to state a prima facie case.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

1109	Joyce Saxton v. American Federation of Teachers	Union violated its duty of fair representation by urging the District to take administrative action against employee and retaliated against employee for her exercise of protected activity.	Dismissed. No violation found.
1110	Temple City USD and CA School Employees Assn. and Teamsters	Union seeks to sever employees in several classifications out of an existing general classified bargaining unit.	Board granted severance petition finding new unit to be appropriate.
Ad-255a	CA School Employees Assn. v. State Center CCD	District seeks reconsideration of Board's decision to retain jurisdiction over case.	Reconsideration request denied.
Ad-257	Santa Ana Educators Assn. v. Santa Ana USD and Monterey Bay Teachers Assn. v. Monterey Peninsula USD	Districts seek consolidation of cases before Board itself.	Request denied.
Ad-258	San Francisco CCD Fed. of Teachers v. San Francisco CCD	Union seeks enforcement of Board order in prior decision.	Request denied. Present dispute substantially different from prior case.
Ad-259-S	CA Correctional Peace Officers Assn. v. CA Dept. of Corrections	State requests Board to excuse its late filed appeal.	Request granted. Board found good cause to excuse late filing.

1994-95 DECISIONS OF THE BOARD ITSELF

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
Ad-260-S	John Kalko and David Ruger v. CA Dept. of Parks and Recreation	State seeks deferral of case to contractual grievance and arbitration procedure.	Interlocutory appeal denied as untimely filed.
Ad-261	Capistrano USD and CA School Employees Assn. and Teamsters	Union seeks dismissal of decertification petition as untimely filed.	Petition dismissed as untimely filed.
Ad-262	Monterey Bay Teachers Assn. v. Monterey Peninsula USD	District seeks deferral of case to contractual grievance and arbitration procedure.	Request denied. Fails to meet standard for deferral.
Ad-263	Santa Ana Educators Assn. v. Santa Ana USD	District seeks deferral of case to contractual grievance and arbitration procedure.	Request denied. Fails to meet standard for deferral.
Ad-264	Christian John v. CA Union of Safety Employees	Union requests Board to excuse its late filed reconsideration request.	Request denied. Failed to demonstrate good cause to excuse late filing.
Ad-265	Marie Illum and Virginia DeMuro v. Teamsters	Employees appeal order dismissing charge.	Appeal denied.
Ad-266-S	Steve Rabisa v. CA Dept. of Personnel Administration	Employee requests Board to excuse his late filed appeal.	Request denied. Failed to demonstrate good cause to excuse late filing.

1994-95 DECISIONS OF THE BOARD ITSELF

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>ALLEGATION</u>	<u>DISPOSITION</u>
Ad-267-S	Joyce Fox v. CA Dept. of Personnel Administration	Employee requests Board to excuse her late filed appeal.	Request denied. Failed to demonstrate good cause to excuse late filing.
Ad-268	CA School Employees Assn. v. Los Angeles USD	District requests Board to excuse its late filed request for an extension of time.	Request denied. Failed to demonstrate good cause to excuse late filing.
JR-16	San Francisco CCD and Laborers' International Union	Union requests Board to join it in seeking judicial review of the Board's decision.	Request denied. Issue not of special importance.
I.R. 359	Cathy R. Hackett v. CA State Employees Assn.	Employee requests that PERB seek to enjoin Union's enforcement of a membership regulation.	Request denied for failure to meet just and proper test.
I.R. 360	Los Angeles USD Peace Officers Assn. v. Los Angeles USD	Union requests that PERB seek to enjoin District from unilaterally reducing wages.	Request denied for failure to meet reasonable cause and just and proper test.
I.R. 361	Hayward USD v. Hayward Education Assn.	District requests that PERB seek to enjoin Union from striking.	Request denied for failure to meet just and proper test.
I.R. 362	Hayward USD v. Hayward Education Assn.	District resubmitted request that PERB seek to enjoin Union from striking.	Request granted.

1994-95 DECISIONS OF THE BOARD ITSELF

DECISION NO. CASE NAME ALLEGATION DISPOSITION

I.R. 363	CA School Employees Assn. v. Gavilan CCD	Union requests that PERB seek to enjoin District from implementing layoffs.	Request denied for failure to meet just and proper test.
I.R. 364	CA School Employees Assn. v. Gavilan CCD	Union requests that PERB seek to enjoin District from transfer of work out of bargaining unit and be compelled to rehire laid off employee.	Request withdrawn.
I.R. 365	International Fed. of Professional and Tech. Employees v. San Francisco USD	Union requests that PERB seek to enjoin District from contracting out architectural work.	Request denied for failure to meet reasonable cause and just and proper test.
I.R. 366	Lawrence Livermore National Protective Service Officers Assn. v. UC Lawrence Livermore National Laboratory	Union requests that PERB seek to enjoin UC from implementing staffing reductions and physical evaluations for injured workers.	Request withdrawn.
I.R. 367	Lawrence Livermore National Protective Service Officers Assn. v. UC Lawrence Livermore National Laboratory	Union resubmitted request that PERB seek to enjoin UC from implementing staffing reductions and physical evaluations for injured workers.	Request denied for failure to meet the just and proper test.
I.R. 368	CA Dept. of Forestry Employees Assn. v. CA Dept. of Forestry and Fire Protection	Union requests that PERB seek to enjoin State from making changes in terms and conditions of employment prior to completion of negotiations.	Request withdrawn.

1994-95 UNFAIR PRACTICE CHARGE WORKLOAD

I. Unfair Practice Charges Filed By Office

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Sacramento	40	44	35	35	154
San Francisco	34	34	41	49	158
Los Angeles	<u>43</u>	<u>57</u>	<u>63</u>	<u>57</u>	<u>220</u>
Total	117	135	139	141	532

II. Unfair Practice Charge Dispositions By Office

	Charge Withdrawn	Charge Dismissed	Complaint Issued	Total
Sacramento	44	41	14	149
San Francisco	24	53	69	146
Los Angeles	<u>101</u>	<u>45</u>	<u>69</u>	<u>215</u>
Total	169	139	152	510

III. Prior Year Workload Comparison: Charges Filed

	1991-92	1992-93	1993-94	1994-95	4-Year Average
1st Quarter	124	130	138	117	127
2nd Quarter	173	102	130	135	135
3rd Quarter	145	123	119	139	132
4th Quarter	<u>157</u>	<u>112</u>	<u>114</u>	<u>141</u>	<u>131</u>
Total	599	467	501	532	525

1994-95 LITIGATION ACTIVITY

1. College of the Redwoods Faculty Organization v. PERB [PERB Decision No. 1047]; First District Court of Appeal No. A066248. ISSUE: Did PERB err in dismissing an allegation of unilateral change in teaching opportunity/staffing practice for temporary instructors? Court denied writ petition on April 26, 1995.
2. San Mateo Federation of Teachers, AFT Local 1493, AFL-CIO v. PERB [PERB Decision No. 1030]; First District Court of Appeal No. A064560. ISSUE: Did PERB err in refusing to order the District to provide minimum released time to Petitioner. Court granted PERB's motion to dismiss in a published decision (28 Cal.App.4th 150) on September 6, 1994.
3. Busdrivers Association for Unity v. PERB [PERB Order No. Ad-250]; Second District Court of Appeal Case No. B084362. ISSUE: Does jurisdiction for judicial review of a unit determination reside in the appellate court? Court issued order granting motion to dismiss on June 30, 1994 and denied motion for reconsideration of July 26, 1994.
4. State of California, et al. v. California Department of Forestry Employees Association [PERB Case No. S-UM-561-S]; Third District Court of Appeal Case No. C018200. ISSUE: Did the Superior Court err in issuing a preliminary injunction preventing the Association from using PERB's hearing process? Court dismissed appeals as moot on March 29, 1995.
5. United Teachers of Los Angeles v. PERB [PERB Decision Nos. 1041 and 1041-a]; Second District Court of Appeal Case No. B085428. ISSUE: Did PERB err in dismissing UTLA's motion to amend complaint? Court denied writ petition on January 19, 1995.
6. Ventura Community College District v. PERB [PERB Decision No. 1073]; Second District Court of Appeal Case No. B089464. ISSUE: Did PERB's decision contain findings which are unsupported by substantial evidence and/or are erroneous as a matter of law? District withdrew writ petition on January 27, 1995.
7. Los Angeles Unified School District, et al. v. PERB [PERB Decision No. 1079]; Second District Court of Appeal Case Nos. B900144 and B090128. ISSUE: Did PERB err in finding that agreement on an anti-me-too clause is a violation of the Educational Employment Relations Act? Court denied writ petition on August 30, 1995.

8. California Union of Safety Employees v. PERB [PERB Decision No. 1064-S]; Third District Court of Appeal Case No. C020367. ISSUE: Did PERB err in finding that CAUSE discriminated against Christian John by refusing to represent him. Court denied writ petition on April 20, 1995.
9. Sierra High School District Teachers Association, CTA/NEA v. PERB [PERB Decision No. 1083]; Fifth District Court of Appeal Case No. F023381. ISSUE: Did PERB err in interpreting a Memorandum of Understanding and reversing the Administrative Law Judge decision that the District violated the Educational Employment Relations Act? Court denied writ petition on August 25, 1995.
10. Marin Community College District v. PERB [PERB Decision No. 1092]; First District Court of Appeal Case No. A069669. ISSUE: Did PERB err in finding salaries of managers returning to employment in the certificated unit to be a negotiable subject? Case pending.
11. Desert Sands Unified School District v. PERB [PERB Case No. LA-CE-3473]; Los Angeles County Superior Court Case No. BC126357. ISSUE: District seeks to enjoin PERB from processing a complaint issued against the District. Case pending.
12. California Correctional Peace Officers Association v. PERB [PERB Decision No. 1107-S]; Third District Court of Appeal Case No. C021230. ISSUE: Did PERB err in ruling that the subject matter of the complaint, the alleged denial of CCPOA's organizational rights, was subject to the parties' grievance and arbitration procedure? Association withdrew petition on July 3, 1995.
13. Joyce Saxton v. PERB [PERB Decision No. 1109]; Los Angeles County Superior Court Case No. BS034557. ISSUE: Did PERB err in dismissing Ms. Saxton's duty of fair representation complaint? Case pending.
14. PERB v. Hayward Education Association [PERB Case No. SF-CO-475] Alameda Superior Court Case No. H-178849-7. ISSUE: Should the Association be enjoined from striking prior to the exhaustion of the impasse procedures? Court granted temporary restraining order on September 19, 1995 and preliminary injunction on September 27, 1995.

1994-95 REPRESENTATION CASE ACTIVITY

I. Case Filings and Disposition Summary

* Case Type	Filed	Closed
Representation Petitions	21	30
Decertification Petitions	22	24
Amended Certification Requests	5	4
Unit Modification Petitions	45	38
Organizational Security Petitions	11	10
Mediation Requests	265	231
Factfinding Requests	49	41
Arbitration Panel Requests	2	2
Financial Statement Complaints	0	1
Public Notice Complaints	2	5
Compliance	20	23
Election Objections	<u>2</u>	<u>4</u>
Total	444	413

1994-95 REPRESENTATION CASE ACTIVITY

II. Prior Year Workload Comparison: Cases Filed By Quarter

	1991-92	1992-93	1993-94	1994-95	4-Year Average
1st Quarter	124	101	78	98	100
2nd Quarter	163	122	109	107	125
3rd Quarter	164	158	147	124	148
4th Quarter	<u>162</u>	<u>132</u>	<u>109</u>	<u>112</u>	<u>129</u>
Total	613	513	443	441	502

III. Elections Conducted

Representation	9
Severance	1
Decertification	14
Organizational Security	9
Unit Modification	<u>1</u>
Total	34